

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

IN RE: ETHICON INC. PELVIC REPAIR)	MDL Docket No. 2327
SYSTEM PRODUCTS LIABILITY)	HONORABLE JUDGE JOSEPH R.
LITIGATION)	GOODWIN

PRETRIAL ORDER #
(ORDER APPOINTING LYNN BAKER AS SETTLEMENT MASTER FOR PRIVATE
SETTLEMENT AGREEMENT BETWEEN ETHICON AND CERTAIN PLAINTIFFS'
COUNSEL)

Simmons Hanly Conroy, LLC (collectively, “Plaintiffs’ Counsel”) has entered into a separate Confidential Master Settlement Agreement (the “Settlement Agreement”) with Defendant Ethicon, Inc. and certain related companies (“Ethicon”) to resolve the claims related to the implantation of Ethicon’s Pelvic Repair Products (as defined in the Settlement Agreement). Under the provisions of the Settlement Agreement, Plaintiffs’ Counsel has agreed to seek the approval of this Court to appoint a Settlement Master to perform certain defined functions related to the administration and implementation of the Settlement Agreement. Plaintiffs’ Counsel believes that Professor Lynn A. Baker is well-qualified to perform these and other functions discussed below.

Accordingly, Plaintiffs’ Counsel request, pursuant to the Court’s inherent case management powers, the appointment of Professor Lynn A. Baker to assist in the administration and implementation of their settlement with Ethicon, with the authority to:

- Approve the objective criteria by which the claims of all Claimants covered by the Settlement Agreement are evaluated;
- Assist Plaintiffs’ Counsel in assigning a value and determining the allocation to each Claimant based on the objective criteria;

- Serve as mediator to facilitate the resolution of any disputes that may arise related to the categorization and processing of claims under the terms of the Settlement Agreement; and
- Serve as a mediator of claims if jointly requested by Plaintiffs' Counsel and Ethicon.

Ethicon does not oppose Plaintiffs' Counsel's request. The Court, pursuant to its inherent authority, and having considered the request, and cognizant of the important public policy of encouraging settlement among litigating parties, hereby issues the following Order:

IT IS ORDERED THAT:

1. Professor Lynn A. Baker is hereby appointed as the Settlement Master for the administration of the settlement reached between Simmons Hanly Conroy, LLC and Ethicon, related to the implantation of Ethicon's Pelvic Repair Products (as defined in the Settlement Agreement).
2. The duties of the Settlement Master shall be as set forth in the Settlement Agreement entered into between Plaintiffs' Counsel and Ethicon. In furtherance of the fair and efficient administration and implantation of the settlements, the Settlement Master may have *ex parte* communications with the parties to the Settlement Agreement, Plaintiffs' Counsel and their clients, Ethicon and its counsel, or the Court, and such *ex parte* communications shall not be deemed to have waived any attorney-client privileges.
3. The Settlement Master shall be compensated privately as specified by agreement between Plaintiffs' Counsel and the Settlement Master.

4. An affidavit by the Settlement Master has been submitted and is attached hereto.
5. The Settlement Master shall report to the Court as requested by the Court.

The Court DIRECTS the Clerk to file a copy of this order in 2:12-md-2327 and it shall apply to each member related case previously transferred to, removed to, or filed in this district, *where applicable*, which includes counsel in all member cases up to and including civil action number 2:17-cv-03305. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsd.uscourts.gov.

ENTER: _____ 2018

JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE